

May 3, 2010

Subject: Warm Springs Extension Project
Line, Track, Station, and Systems Contract No. 02EE-120Q
Request For Qualifications (RFQ)
Explanations to Potential Design-Build Enterprise (PDBE) Questions (Set 2)

PDBEs:

The following is in response to PDBE questions in connection with the above referenced RFQ. Except for Q4., these explanations do not constitute an addendum to the RFQ Documents.

Q4. In the Request for Qualifications, Page 1 of 30, it states "If two or more business entities submit a Proposal as part of a Joint Venture, or expect to submit a Proposal as part of a Joint Venture, each entity within the Joint Venture *must be separately qualified to submit a Proposal*" (italics added).

In the case of a joint venture comprised of several business entities, it is our understanding that if the joint venture is pursuing qualification to submit a Proposal in the role of Design-Builder, and that within the joint venture's overall Questionnaire response for the role of Design-Builder it submits individual Questionnaire responses for each constituent joint venture entity, then this will meet the requirement to "separately qualify" each entity. Please confirm that our understanding is correct.

A4. Your understanding matches the wording on Page 1 of 30, but upon review the wording does not match BART's intent. BART will issue an Addendum to the RFQ to remove the sentence referenced in the question.

A Joint Venture wishing to submit a proposal must be pre-qualified as a Design-Builder. Part II of the questionnaire asks for information on the PDBE and its 'Associates'. Part III(A) of the questionnaire asks for information on the Design-Builder and its 'Associates'. Both Parts define the term 'Associates' to include the member firms of a Joint Venture.

Contrary to the wording on Page 1 of 30, the member firms do not need to be separately qualified. However the Joint Venture or the member firms of the Joint Venture may wish to submit additional questionnaires and become pre-qualified for additional services, such as General Contractor. See also the response to question 9 below.

Q5. In the Request for Qualifications section regarding "Additional Information", on Page 3 of 30, it states that no response will be made to inquiries received by the District later than 14 calendar days before the SOQ submittal due date. How many days prior to the SOQ submittal due date will be the last day that the District will issue responses to inquiries received?

A5. Seven calendar days.

Q6. This is a general question regarding the Request for Qualifications Questionnaire. Consider the situation in which a joint venture is comprised of several business entities and the joint venture is a new joint venture formed specifically for the purpose of qualifying and submitting a Proposal for this Design-Build contract. As such, this newly formed joint venture will have no prior record for items such as safety, financial profile, project performance, etc. It is our understanding that where the Qualification Questionnaire asks for information regarding the joint venture, it is acceptable to provide separate and specific information for each of the business entities which comprise the joint venture. Please confirm that our understanding is correct.

A6. Your understanding is correct. Part II and Part III(A) of the questionnaire define the member firms of a Joint Venture as 'Associates' of the Joint Venture, and requires information in the Joint Venture and its 'Associates'.

Q7. This question concerns Qualification Questionnaire Part I(C) - Principal Engineer, Question 2(i) on page 12 of 95:

Please clarify that BART is asking about the top corporate officers (CEO, President, Secretary, CFO) of the Principal Engineer's firm – rather than every corporate officer who has an ownership interest in the company.

For larger corporations, the exact wording of this question could include literally hundreds of names which does not seem to be relevant to the issue of financial and managerial stability of the firm.

A7. Yes, BART is asking about top corporate officers and the corporate officer(s) with direct responsibility for the LTSS contract only.

Q8. In the Instructions for Submission of Qualification Statement, Section 14.1.1.B it says: "The LTSS Contractor will be responsible for finishing work to complete facilities constructed under other contracts."

Please clarify and confirm that the LTSS Contractor will only be responsible for the scope of the LTSS contract which is part of the WSX program, and the WSX program includes facilities constructed under other contracts.

A8. The RFP documents will define the LTSS scope.

In particular, the RFP documents will indicate that the Fremont Central Park Subway and the BART Bridge over Paseo Padre Parkway were constructed by previous contracts and in both cases the LTSS contractor will incorporate the previous work into the Warm Springs Extension. The LTSS contract work to "incorporate" these structures includes construction of track and systemwide duck banks through/across the Subway and Bridge, and construction of the Subway emergency ventilation system utilizing the openings provided in the previous work.

- Q9. In the Request for Qualifications, Page 1 of 30, it states, "If two or more business entities submit a Proposal as part of a Joint Venture, or expect to submit a Proposal as part of a Joint Venture, each entity within the Joint Venture *must be separately qualified to submit a Proposal*" (italics added).

Please confirm that the constituent members of a proposing Joint Venture must qualify as the Design Builder only, and not each of the other prequalification categories.

- A9. No. In most cases the Joint Venture or member firms of the Joint Venture will also submit qualification statements for additional prequalification categories (e.g. General Contractor). See also the response to question 4 above.

- Q10. Is the project fully funded and ready for immediate award?

- A10. The funding agencies (ACTIA, MTC and the State of California) have committed to BART that all required funding agreements will be in place for a contract award in spring 2011.

- Q11. Will a bid stipend be provided in the Request for Proposal (RFP) phase? Extensive cost will be extended by all prospective bidders to advance the design and estimate for the RFP. With a bid stipend a more complete design, with resultant lower prices, will be realized in the RFP.

- A11. BART does not anticipate awarding any stipends.

- Q12. Is a Project Labor Agreement (PLA) being negotiated by BART or will a PLA be the responsibility of the selected Design-Build (DB) firm?

- A12. BART is neither currently negotiating nor currently requiring a Project Labor Agreement. Proposers should be open to the possibility that a Project Labor Agreement may be required at some point in the future. BART will be funding a Labor Compliance Program to verify DB firm compliance with applicable labor codes.

- Q13. According to the schedule in the Request for Qualifications (RFQ), the RFP is due in November 2010; however, award will not be until May 2011. Can this time period be shortened? It is difficult for primes, subs and suppliers to hold prices for six (6) months without knowing that they are the successful proposer.

- A13. BART will attempt to shorten the evaluation and award period, but experience with other projects suggests the current schedule is realistic.

- Q14. The BART requirement that no payment and performance bonds can be requested of any sub whose subcontract value is under \$500,000.00 adds undue risk and financial pressure on the DB proposers. Can this limit be reduced to lower the risk and cost to the DB firm?

A14. No.

Q15. Per RFQ section 5.0 and 16.1, are copies of the California Contractor's License Classification A required to be submitted, or is indicating the licenses in Part I(A) all that is required?

A15. Responding to Part I (A) will be sufficient.

Q16. Per appendix A.1, section 1.0, audited financial statements are required for the Design-Builder. Privately-held companies consider this information highly confidential, as such, is it permissible to send one hard copy of the financial statements under separate cover directly to the District?

A16. It would be acceptable to submit a single paper copy of the required financial statements together with the Statement of Qualifications in a separate envelope marked "CONFIDENTIAL." You may omit the financial statements from the required CD-ROM. (It will not be acceptable to submit the financial statements under separate cover.)

Q17. In the event a company provides more than one service (i.e. traction power installation and communication equipment installation), should the Part I and Part III forms be filled out multiple times?

A17. Yes. Complete a prequalification questionnaire for each service for which a firm (or Joint Venture) requests pre-qualification.

Q18. As a side note, do we know when the last addenda will be issued? One of the signature forms requires that we acknowledge each addendum, thus preventing us from obtaining signed forms from the subs until after this date.

A18. No addenda will be issued less than 7 calendar days before the Statement of Qualifications due date. (If a late question or discovery requires a late addendum, the addendum will also reschedule the due date.)

Sincerely,



Sunni Gunawardena
Contract Administrator